

PERSONNEL POLICY
Fauquier County, Virginia

Policy Title:
~~1992~~07/21/03
Americans With Disabilities Act
Reasonable Accommodation
~~_____~~05/05/92New

Section No.:

43

Effective Date:
~~May 5,~~

Supersedes Policy:

I. **PURPOSE**

~~The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in State and local government services, public accommodations, transportation, and telecommunications.~~

It is the objective of the Board of Supervisors to comply with the provisions of the Americans With Disabilities Act (ADA).

II. **SCOPE**

~~Any qualified employee or applicant for employment with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of a job in question. An individual with a disability is a person who:~~

- ~~• Has a temporary or permanent physical or mental impairment that substantially limits one or more major life activities, e.g., seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working;~~
- ~~• Has a record of such an impairment; or~~
- ~~• Is regarded as having such an impairment.~~

This policy applies to all employees and applicants for employment.

III. **DEFINITIONS** ~~GENERAL PROVISIONS~~

~~Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include:~~

- ~~• Acquiring or modifying equipment or devices,~~
- ~~• Job restructuring,~~
- ~~• Part time or modified work schedules,~~
- ~~• Reassignment to a vacant position,~~
- ~~• Adjusting or modifying examinations, training materials or policies,~~
- ~~• Providing readers and interpreters, and~~
- ~~• Making the workplace readily accessible to and usable by people with disabilities.~~

Reasonable accommodation also must be made to enable an individual with a disability to participate in the application process, and to enjoy benefits and privileges of employment equal to those available to other employees.

~~How To Identify A Reasonable Accommodation~~

~~A qualified individual with a disability may request a reasonable accommodation. The individual may suggest a reasonable accommodation based upon the individual's own life or work experience. However, when the appropriate accommodation is not readily apparent, the County must make a reasonable effort to identify one. The County Administrator, the Director of Personnel, and the appropriate Department Head will consult informally with the applicant or employee about potential accommodations that would enable the individual to participate in the application process or perform the essential functions of the job. If this consultation does not identify an appropriate accommodation, the Director or Personnel will make reasonable inquiry to determine reasonable available accommodations which may include contacting the EEOC, state or local vocational rehabilitation agencies, or state or local organizations representing or providing services to individuals with disabilities, and will then meet with the County Administrator, the appropriate Department Head, and the individual to reach a resolution.~~

~~Reasonable Accommodation and Undue Hardship~~

~~The ADA states it is not necessary to provide a reasonable accommodation if doing so would cause an undue hardship. Undue hardship means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the County's business. The ADA has determined that among the factors to be considered in determining whether an accommodation is an undue hardship are the cost of the accommodation, the County's size, financial resources and the nature and structure of its operation.~~

~~All final decisions regarding reasonable accommodation and undue hardship will rest with the County Administrator.~~

A. Americans With Disabilities Act (ADA)

The Americans With Disabilities Act is defined as the federal law that prohibits discrimination against a qualified individual with a disability who can perform the essential functions of a position, with or without accommodation.

B. Disability

A disability is defined as a temporary or permanent physical or mental impairment that substantially limits one or more major life activities (i.e., sitting, standing, lifting, reaching, hearing, speaking, seeing, walking, breathing, learning, caring for oneself or working).

C. Essential Functions

Essential functions are defined as primary job duties that are fundamental to a position.

D. Reasonable Accommodation

Reasonable accommodation is defined as a modification to the application process, a job, or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to partake of the same benefits and privileges of employment as are enjoyed by employees without disabilities.

E. Undue Hardship

Undue hardship is defined as any accommodation that would be unduly costly, extensive, substantial or disruptive or would fundamentally alter the nature or operation of the County's business.

IV. **GENERAL PROVISIONS**

A. Qualified Individual

An individual is entitled to employment rights under the ADA if he/she is a qualified individual with a disability. A qualified individual with a disability

1. possesses the skills, education, employment experience and/or licenses required for a particular job and
2. is able to perform the essential functions of a particular job.

B. Disability

Under the ADA, a person has a disability if he/she:

1. has a temporary or permanent physical or mental impairment that substantially limits a major life activity;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

C. Reasonable Accommodation

1. Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, perform essential functions of a job, or enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

2. A reasonable accommodation may include:

- a. acquiring or modifying equipment or devices;
- b. job restructuring;
- c. part-time or modified work schedules;
- d. reassignment to a vacant position;
- e. adjusting or modifying examinations, training material or policies;
- f. providing readers and interpreters; and
- a) g. making the workplace readily accessible to and usable by people with disabilities.

2. Identifying A Reasonable Accommodation

- b) The process of determining an appropriate reasonable accommodation is an interactive, problem solving technique involving both the employer and the qualified individual with a disability which involves:
 - a. analyzing the particular job involved and determining its purpose and essential functions;
 - b. determining the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation; and
 - c. identifying potential accommodations and assessing the effectiveness each would have in enabling the individual to perform the essential functions of the position.

C. Undue Hardship

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- 1. The ADA does not require the provision of a reasonable accommodation if doing so would cause an undue hardship.
- 2. Factors considered in determining whether an accommodation constitutes an undue hardship include:
 - a. the cost of the accommodation;

- b. the County's size;
 - c. financial resources; and
 - d. the nature and structure of the County's operation.
2. The County Administrator shall make final decisions regarding reasonable accommodation and undue hardship.